

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

APULENT, LTD.,

Plaintiff,

v.

JEWEL HOSPITALITY, INC.,

Defendant.

Civil Action No.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

JURY TRIAL DEMANDED

The plaintiff, Apulent, Ltd. (“Apulent”), for its complaint for copyright infringement against defendant Jewel Hospitality, Inc. (“Jewel”) hereby alleges as follows:

PARTIES

1. Apulent is a corporation organized and existing under the laws of the State of Washington. At all relevant times herein, Apulent has been doing business in King County, Washington.

2. Upon information and belief, Jewel is a corporation organized and existing under the laws of the State of Washington, with a principal place of business at 2 Nickerson Street, Suite 300, Seattle, Washington 98109.

JURISDICTION AND VENUE

3. This court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1338(a) (original jurisdiction for actions arising under copyright law).

4. Venue is appropriate in this Court under 28 U.S.C. §§ 1400(a) and 1391(b) because Jewel resides in this judicial district and because a substantial part of the events giving rise to the claim occurred in this judicial district.

FACTS

Apulent's Intellectual Property

5. Since 1993, Apulent has operated a catering and special-event planning service under the trade name and service mark SHILSHOLE BAY BEACH CLUB.

6. At all times relevant herein, Apulent has been the owner by assignment or the exclusive licensee of all copyrights in certain works of visual art, namely three photographs entitled "His and Her Event View," "Bay View," and "Inside View" (collectively, "Apulent's Copyrighted Works"). Apulent's Copyrighted Works were developed as a part of an effort to showcase a certain level of quality and customer service Apulent's customers have come to know and expect from Apulent.

7. Beginning in 2008, Apulent published the photograph entitled "His and Her Event View" on its website for the purpose of advertising its catering and special-event planning service in connection with the trade name and service mark SHILSHOLE BAY BEACH CLUB.

8. Attached as Exhibit A to this complaint is a true and correct copy of Apulent's copyright registration for the work entitled "His and Her Event View," U.S. Copyright Registration No. VA 1,901,993. By virtue of this registration, Apulent's copyright in the work entitled "His and Her Event View" is presumed valid.

10. Attached as **Exhibit B** to this complaint is a true and correct copy of Apulent’s copyright registration for the work entitled “Bay View,” U.S. Copyright Registration No. VA 1,901,992. By virtue of this registration, Apulent’s copyright in the work entitled “Bay View” is presumed valid.

10. Attached as **Exhibit B** to this complaint is a true and correct copy of Apulent’s copyright registration for the work entitled “Bay View,” U.S. Copyright Registration No. VA 1,901,992. By virtue of this registration, Apulent’s copyright in the work entitled “Bay View” is presumed valid.

11. Beginning in 2012, Apulent published the photograph entitled “Inside View” on its website for the purpose of advertising its catering and special-event planning service in connection with the trade name and service mark SHILSHOLE BAY BEACH CLUB.

12. Attached as **Exhibit C** to this complaint is a true and correct copy of Apulent’s copyright registration for the work entitled “Inside View,” U.S. Copyright Registration No. VA 1,901,991. By virtue of this registration, Apulent’s copyright in the work entitled “Inside View” is presumed valid.

Defendant's Infringing Activity

13. Without Apulent's authorization, Jewel has copied and published Apulent's Copyrighted Works on its website, while doing business under a name and mark confusingly similar to Apulent's, namely BEACH CLUB AT SHILSHOLE BAY.

14. Attached as **Exhibit D** to this complaint is a true and correct copy of Jewel’s website showing Jewel’s unauthorized copying, publication, and use of Apulent’s copyrighted photograph entitled “His and Her Event View” in connection with Jewel’s infringing name and mark BEACH CLUB AT SHILSHOLE BAY.

1 15. Attached as **Exhibit E** to this complaint is a true and correct copy of Jewel's
2 website showing Jewel's unauthorized copying, publication, and use of Apulent's copyrighted
3 photograph entitled "Bay View" in connection with Jewel's infringing name and mark BEACH
4 CLUB AT SHILSHOLE BAY.

5 16. Attached as **Exhibit F** to this complaint is a true and correct copy of Jewel's
6 website showing Jewel's unauthorized copying, publication, and use of Apulent's copyrighted
7 photograph entitled "Inside View" in connection with Jewel's infringing name and mark
8 BEACH CLUB AT SHILSHOLE BAY.

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10 **COUNT ONE—COPYRIGHT INFRINGEMENT OF THE WORK ENTITLED**
11 **"HIS AND HER EVENT VIEW"**

12 17. Apulent incorporates by reference its allegations in all previous paragraphs.

13 18. Jewel has infringed Apulent's copyright in the work entitled "His and Her Event
14 View" by *inter alia* making copies of the work, distributing the work, or publishing the work
15 without Apulent's authorization.

16 19. Jewel's unauthorized copying, distribution, or publication of Apulent's
17 copyrighted work violates one or more of the exclusive rights owned by Apulent provided by 17
18 U.S.C. § 106.

19
20 **COUNT TWO—COPYRIGHT INFRINGEMENT OF THE WORK ENTITLED**
21 **"BAY VIEW"**

22 20. Apulent incorporates by reference its allegations in all previous paragraphs.

23 21. Jewel has infringed Apulent's copyright in the work entitled "Bay View" by *inter*
24 *alia* making copies of the work, distributing the work, or publishing the work without Apulent's
25 authorization.
26

1 22. Jewel’s unauthorized copying, distribution, or publication of Apulent’s
2 copyrighted work violates one or more of the exclusive rights owned by Apulent provided by 17
3 U.S.C. § 106.

4 **COUNT THREE—COPYRIGHT INFRINGEMENT OF THE WORK ENTITLED**
5 **“INSIDE VIEW”**

6 23. Apulent incorporates by reference its allegations in all previous paragraphs.

7 24. Jewel has infringed Apulent’s copyright in the work entitled “Inside View” by
8 *inter alia* making copies of the work, distributing the work, or publishing the work without
9 Apulent’s authorization.

10 25. Jewel’s unauthorized copying, distribution, or publication of Apulent’s
11 copyrighted work violates one or more of the exclusive rights owned by Apulent provided by 17
12 U.S.C. § 106.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Apulent prays for the following relief:

15 A. For a permanent injunction, enjoining and prohibiting any further infringement of
16 Apulent’s Copyrighted Works;

17 B. For judgment against Jewel for actual damages in connection with Jewel’s
18 infringement of Apulent’s Copyrighted Works and an award of all profits attributable to the
19 infringement in an amount to be proven at trial;

20 C. For an award of statutory damages pursuant to 17 U.S.C. § 504;

21 D. For an award of attorney fees pursuant to 17 U.S.C. § 505; and

22 E. For such other and further relief as the Court may deem just and proper.
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JURY DEMAND

Apulent demands a jury on all claims so triable.

DATED this 29th day of April, 2014.

LOWE GRAHAM JONES^{PLLC}

s/Mark P. Walters

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